

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA**

CHARLES E. JUSTICE,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION,

Defendant.

)
)
)
)
)
)
)
)
)
)
)

CAUSE NO.: 3:08-CV-171-TS

ORDER

Plaintiff Charles E. Justice, a *pro se* prisoner, filed a Complaint against the Commissioner of the Social Security Administration. The Plaintiff alleges that his ex-wife improperly receives child support benefits that are derived from his social security benefits. He challenges the paternity of the children and requests that the Court reverse the Commissioner's decision granting them benefits. On May 21, 2008, the Court referred this matter to Magistrate Judge Christopher Nuechterlein for a report and recommendation. Magistrate Judge Nuechterlein filed a Report and Recommendation on November 7, recommending that the Court dismiss the Plaintiff's claim pursuant to 28 U.S.C. § 1915A because he has not stated a claim upon which this Court can grant relief.

On November 20, the Plaintiff moved for an extension of time to file his brief, which the Court construed as a request for an extension of time to file objections to the Magistrate Judge's November 7 Report and Recommendation. The Court extended the Plaintiff's deadline to December 29. On December 9, the Plaintiff filed a letter to the Magistrate Judge asking that the Court allow a DNA test of one of the minor children "so that the true father can be ascertained and support payments appropriately dispensed." (Pl. Letter, DE 15.)

Although this Court must “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made,” 28 U.S.C. § 636(b)(1), the Plaintiff’s letter, which is his only filing in response to the Report, does not address either of the grounds presented in the Report and Recommendation in support of dismissal: (1) that the Complaint does not assert grounds for federal subject matter jurisdiction; and (2) that the Complaint does not establish that the Plaintiff has standing to bring the suit.

Having reviewed the Report and Recommendation prepared by the Magistrate Judge, the Court ADOPTS the Report and Recommendation [DE 12] and ACCEPTS the recommended disposition. Accordingly, the Plaintiff’s case is DISMISSED pursuant to the Court’s screening function, 28 U.S.C. § 1915A, for failure to state a claim upon which relief can be granted.

SO ORDERED on January 12, 2009.

s/ Theresa L. Springmann
THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT
FORT WAYNE DIVISION